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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,263	11/21/2003	Edward Paul Carlin	9435	2795

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EXAMINER

CHAPMAN, GINGER T

ART UNIT PAPER NUMBER

3761

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,263

Applicant(s)

CARLIN, EDWARD PAUL

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the claims

By way of Applicants' amendment filed 14 July 2006: claim 5 is canceled; claims 1-4 and 7-12 are pending in the application.

Withdrawn rejections under 35 USC 112:

The rejection of claim 5 under 35 USC 112 second paragraph made of record in the previous Office action is withdrawn due to Applicant's amendment filed 14 July 2006.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoelling (US 2001/0014348 A1) as evidenced by Hirschman (US 4,175,561) in view of Schoelling (US 2002/0151859 A1).

With regard to claim 1, as seen in Figures 1-8, Schoelling discloses a tampon (10) for feminine hygiene (p. 1, [0014]) comprising an insertion end (14), a withdrawal end (16), a center region (18), a longitudinal axis (fig. 7), and an outer surface (34); the tampon being comprised of compressed fibrous material (p. 1 [0001, 0014]); and the outer surface of the tampon comprises a plurality of recessed portions (figs. 1 and 4 (24, 28, 30, 32)); each of the recessed portions

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comprising a length dimension and a width dimension (p. 1, [0016]; and the width dimension varies intermittently as measured along the length dimension (p. 1, [0018]: fig. 1 (30)).

Schoelling discloses at p. 2, [0020] that the recessed portions (24, 28, 30, 32) in the form of recessed perforations, holes and apertures of varying sizes and geometric configurations of varying and regular shapes such as triangular, circular and square shapes are topographical features which serve to increase the surface area of the outer surface of the tampon thereby increasing the effective absorbing surface area of the outer surface of the tampon. This general principle is evidenced by Hirschman stating at col. 1, ll. 23-46 and at col. 3, ll. 20-45 that recessed portions in the form of pin-holes serve to increase the surface area and absorptivity of the outer surface of the tampon and at col. 3, ll. 43-46 that varying the number, size and depth of the holes varies the absorptive capacity of the outer surface.

With regard to the limitation of all of the outer surface of the tampon is liquid absorbing, Schoelling ('348) discloses the invention substantially as claimed but does not expressly disclose that all of the outer surface of the tampon is liquid absorbing. Schoelling ('859), at p. 1, [0008] expresses the desire to enlarge the surface area of the tampon and increase the fiber available for absorption of body fluid when the tampon is in use. As seen in Figures 3 and 4, Schoelling teaches a tampon (30) wherein all of the outer surface (40, 42) is comprised of liquid-absorbing fibers [0037-0043, 0081-0083] thus all of the outer surface of the tampon is liquid absorbing. Therefore it would have been obvious to one having ordinary skill in the art at the time to form the tampon of Schoelling ('348) having all of the outer surface of the tampon liquid-absorbing as taught by Schoelling ('859) since Schoelling ('859) states at [0042 and 0008] that the advantage

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to making a tampon with this design is that an increase in the absorptive capacity of the tampon is achieved thereby reducing the early leakage of fluids flowing down the surface of the tampon.

With regard to claim 2, Schoelling discloses the largest width dimension is located in the insertion end (p. 2, [0022]).

With regard to claim 3, Schoelling discloses the largest width dimension is located in the withdrawal end (figs. 1 and 4 (30); fig. 3: p. 1, [0018], p. 2, [0021]).

With regard to claim 4, Schoelling discloses the smallest width dimension is located in the center region (p. 2, [0026]).

With regard to claim 7, Schoelling discloses the recessed portions are evenly spaced (figs. 1 and 4).

With regard to claim 8, Schoelling '859 discloses the tampon having uniform density over a cross-section of the tampon (p. 1, [0009, 0011]).

With regard to claims 9 and 10, Schoelling ('348) discloses the tampon being comprised of compressed fibrous material but does not expressly disclose the tampon further comprising a core which is highly compressed **as recited in claim 10** and thus the fibrous material would necessarily have varying density over a cross section of the tampon **as recited in claim 9**.

Schoelling ('859) at p. 3, [0037] teaches the ability of a core which is highly compressed to ensure the stability and column strength of the tampon during digital insertion of the tampon into a body cavity, and teaches at p. 1, [0008] that such a core additionally reduces the risk of leakage by increasing the fiber quantity available for absorption of body fluid in the area of the compressed core after the tampon is inserted, thus disclosing a desire for the tampon to have a highly compressed core necessarily and inevitably resulting in varying density over a cross-

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section of the tampon. As seen in Figures 3 and 4, Schoelling '859 discloses the tampon (30) comprises a core (38) which is highly compressed. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the tampon of Schoelling '348 comprising a highly compressed core as taught by Schoelling '859 in order to provide a tampon that has sufficient column strength to be digitally inserted and increased fiber quantity to reduce the risk of leakage.

With regard to claim 11, Schoelling discloses the withdrawal end (16) comprises a withdrawal member (26).

With regard to claim 12, Schoelling '859 discloses the withdrawal end (34) further comprises a finger indent (48) p. 3, [0040].

Response to Arguments

Applicant's arguments filed 31 January 2006 have been fully considered but they are not persuasive.

Applicant submits the following:

Claim 1 has been amended to recite that all of the outer surface of the tampon is liquid absorbing and thus distinguishes over the prior art.

This argument is not persuasive because, as detailed *supra*, the prior art of record discloses that it is known in the tampon art to form the outer surface of the tampon liquid absorbing. See claim 1, *supra*. Applicants' arguments with regard to the dependent claims have been fully considered but are not persuasive as Applicants' arguments depend entirely on Applicants' arguments regarding the rejection of claim 1, which have been addressed *supra*.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ginger Chapman
Examiner, Art Unit 3761
09/25/06



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

